



: STATE OF NEW JERSEY
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: FINAL ADMINISTRATIVE ACTION
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: CIVIL SERVICE COMMISSION
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In the Matter of E.B.T.

CSC Docket No. 2014-3242

Request for Stay

ISSUED: AUG 14 2014 (BS)

The City of Hoboken (City), represented by Bryant Gonzalez, Esq., petitions the Civil Service Commission (Commission) for a stay of the Commission's decision in *In the Matter of E.B.T.* (CSC, decided April 9, 2014) pending the City's appeal to the Appellate Division of the Superior Court of New Jersey. This request for a stay is made pursuant to *N.J.A.C. 4A:2-1.2(f)* and *N.J. Court Rules 2:9-7*.

E.B.T. was originally removed from the eligible list for Fire Fighter (M2537M) for failing the psychological examination. E.B.T. appealed, secured a psychological evaluation on his own, and appeared before the Medical Review Panel (Panel) on January 14, 2014. The Panel reviewed all submitted evaluations and concluded that E.B.T. was mentally fit to perform effectively the duties of a Fire Fighter and recommended that he be restored to the list. It is noted that the appointing authority did not file exceptions regarding the Panel's recommendation. At its April 9, 2014 meeting, the Commission accepted and adopted the recommendation of the Panel and issued an order to the City to appoint E.B.T.

On petition to the Commission for a stay, the City argues that it should not be required to appoint E.B.T. because "[f]rom the background check that (E.B.T.) had an extensive history of drug use, an arrest from assaulting a Police Officer, and several motor vehicle infractions." Additionally, Dr. Betty McLendon, the City's psychological evaluator, concluded that E.B.T. demonstrated a pattern of maladaptive functioning characterized by a history of substance abuse problems, and repeated difficulty assuming responsibilities and adhering to standards. This finding was supported by a review of E.B.T.'s personal history which included

illegal drug use, a criminal record, alcohol abuse problems, and motor vehicle infractions. Dr. McLendon also found that E.B.T. was an individual with limited insight and poor judgment and that he was not psychologically fit to serve as a Fire Fighter. The City indicated that, despite the findings and issues raised Dr. McLendon, the Panel chose to accept E.B.T.'s unverified version of events concerning his arrests as fact in arriving at its recommendation to restore his name to the list. The City received a copy of the Panel's report and recommendation on January 23, 2014 indicating that E.B.T. should be restored to the list and the Commission adopted the report and recommendation of the Panel on April 9, 2014.

The City respectfully requests that the Commission stay its order to appoint E.B.T. pending the outcome of its appeal to the Appellate Division. The City asserts that "significant public policy issues are implicated" in that hiring someone it strongly believes is mentally unfit to serve would be detrimental to public safety. The City respectfully submits that the Commission's order to reinstate E.B.T. resulted from its reliance on the "flawed findings and evaluation" of E.B.T. conducted by the Panel. The City contends that should it be required to implement the Commission's April 9, 2014 order, prior to the disposition of its appeal, it will suffer irreparable harm, "namely placing the lives and property interests of its residents at risk." Conversely, should the City lose its appeal, E.B.T.'s reinstatement and retroactive appointment will not be "destroyed or impaired" by granting a stay as any harm to him can be redressed through monetary relief.

The City argues that the report of the Panel is flawed in that it did not articulate the standards or principles it used to analyze Dr. McLendon's report or address how her conclusions were incorrect. The City asserts that the whole procedure for a psychological appeal to the Commission is somewhat of an anomaly, particularly in instances where the appeal is referred to the Panel, in that the Panel is not authorized to initiate its own fact-finding investigation or conduct an adversarial hearing where the parties are allowed to make statements, present witnesses, offer evidence, or exercise a right of cross examination. The Panel meeting is not a fact-finding proceeding or a meeting to review documents. Even more disturbing to the City is that the Panel does not record or maintain minutes of its proceedings. The City argues that the Panel's failure to explain its recommendation to restore in this case is similar to the error made by the Commission's predecessor, the Merit System Board (Board), in *In the Matter of Anastasia Vey*, 124 N.J. 534 (1991) and 135 N.J. 396 (1994), where the matter was remanded back to the Board by the Court for further findings of fact on the basis that the record did not disclose the Board's basis for equating identified personality traits with the condition of unfitness. The city contends that without any discussion of how E.B.T.'s January 23, 2014 statements regarding his substance abuse, alcohol abuse, arrests, and various motor vehicle infractions could be reconciled with the demands of being a Fire Fighter, the Panel's "wholesale acceptance" of his statements as credible fact was "arbitrary, capricious, and unreasonable." The City

argues that there is no way that the Appellate Division can determine that the Panel's recommendation to restore E.B.T. to the eligible list for Fire Fighter could be reasonably reached on "sufficient" or "substantial" credible evidence presented in the record and, therefore, it is likely the Commission's April 9, 2014 order will be reversed or remanded back to the Commission for further review. Accordingly, the City respectfully requests that its Motion for Stay be granted.

In response, E.B.T., represented by Daniel J. Zirrith, Esq., argues that the Panel issued a detailed, five page report which included a discussion, detailed findings, numerous additional materials reviewed, and explained the findings and conclusions of Dr. McLendon and Dr. Crain. E.B.T. further argues that, significantly, the City failed to file exceptions to the Panel's positive report and recommendation nor did it request reconsideration after the Commission issued its April 9, 2014 Final Administrative Action. Additionally, E.B.T. submits that there is no clear likelihood that the city will prevail on this matter and that the City has failed to support its allegations that employing E.B.T. as a Fire Fighter would present a risk to the community.

E.B.T. argues that a Stay should be granted only in those cases where undisputed evidence is provided, not mere allegations. The City will suffer no harm if the Stay is not granted. E.B.T., on the other hand, would suffer substantial harm if a Stay was granted in that he has already endured a lengthy appeal process and the City is enrolling a class of Firefighters in the Fire Academy effective July 14, 2014. A delay in E.B.T.'s appointment would be of no benefit to the City in that the Commission ordered that he receive retroactive seniority. With regard to *Vey*, it is the City that carries the burden to prove that a candidate is psychologically unfit for a position. In *Vey*, unlike the present matter, the Panel agreed with the City's doctor that the candidate was psychologically unfit and the then-Merit System Board adopted the report and recommendation of the Panel. Further, in *Vey*, the Court found that the appellant had a full and fair opportunity to participate in the process as did the City in the instant matter. However, after the Panel found in favor of E.B.T., the City chose not to do so until after the Commission issued its decision. E.B.T. argues that no basis exists to support the City's request to Stay the Commission's Final Administrative Action. E.B.T.'s removal from the eligibility list was reversed and he is now entitled to appointment pursuant to the Commission's final decision.

CONCLUSION

The following factors are provided by *N.J.A.C.* 4A:2-1.2(c) in evaluating petitions for a stay:

1. Clear likelihood of success on the merits by the petitioner;
2. Danger of immediate or irreparable harm;

3. Absence of substantial injury to other parties; and
4. The public interest.

Initially, the Commission will address the issues raised by the City of Hoboken in its request for a stay. First, the City argues that hiring someone it strongly believes is mentally unfit to serve as a Fire Fighter would be detrimental to public safety and, therefore, not in the public interest. Specifically, it should not be required to appoint E.B.T. because "[f]rom the background check that (E.B.T.) had an extensive history of drug use, an arrest from assaulting a Police Officer, and several motor vehicle infractions," the Commission notes that if E.B.T.'s background report was so egregious, the City could have requested the removal of his name from the subject list of eligible **prior to extending him a conditional offer of employment**. *N.J.A.C. 4A:4-4.7(a)* states in pertinent part that an eligible can be removed from a list who has a criminal record which adversely relates to the employment sought. Again, the City neglected to use this option and instead extended a conditional offer of employment and subjected E.B.T. to a psychological evaluation.

The City further argues that the Panel chose to accept E.B.T.'s unverified version of events concerning his arrests as fact in arriving at its recommendation to restore his name to the list, despite the findings and issues raised by Dr. McLendon to the contrary, and that the Commission arbitrarily adopted the report and recommendation of the Panel in this matter. The City believes that the report of the Panel is flawed in that it did not articulate the standards or principles it used to analyze Dr. McLendon's report or address how her conclusions were incorrect. The Commission disagrees and notes that the Panel is comprised of experts in the fields of psychology and psychiatry who thoroughly review the reports and recommendations, including all of the testing data, submitted by evaluators on behalf of both the appellant and the appointing authority, prior to making its own report and recommendation to the Commission. The Panel meeting serves as a vehicle for the members of the Panel to question the appellant concerning areas of concern which arise from the Panel's own thorough review of both sets of evaluations, the test data, and behavioral record prior to rendering its own report and recommendation concerning the psychological suitability of the appellant. Copies of the Panel's report and recommendation are provided to the parties prior to a final decision being issued, and the parties are afforded an opportunity to file exceptions and cross exceptions to be addressed by the Commission in its Final Administrative Determination. However, in the instant situation, the City failed to file exceptions to the Panel's initial report and recommendation, even though afforded an opportunity to do so.

With regard to the City's argument that the Panel failed to explain its recommendation to restore in this case as being similar to the error made by the Commission's predecessor, the Merit System Board (Board), in *In the Matter of*

Anastasia Vey, supra, the Commission strongly disagrees. Aside from the instant situation being different from that in *Vey* in that E.B.T.'s appeal was granted by the Commission and the City did not sustain its burden of proof, the Panel's report and recommendation to the Commission was not the final agency administrative determination in this matter and, consequently, applying the standard articulated in *Vey* to the Panel's report and recommendation would have been premature. However, as aptly stated by E.B.T. in his exceptions to the Request for Stay, and apparently overlooked by the City, the Panel issued a detailed, five page report which included a discussion, detailed findings, numerous additional materials reviewed, and explained the findings and conclusions of Dr. McLendon and Dr. Crain before explaining its own findings and making the recommendation to restore E.B.T. to the subject eligible list. Further, the Commission then conducts an independent review of the Panel's report and recommendation prior to rendering its own conclusions, which are based firmly on the totality of the record presented to it.

Finally, the Commission notes that the City made a conditional offer of appointment, and that a federal law, the Americans With Disabilities Act (ADA), 42 U.S.C.A. § 12112(d)(3), expressly requires that a job offer be made before any individual is required to submit to a medical or psychological examination. *See also* the Equal Employment Opportunity Commission's *ADA Enforcement Guidelines: Preemployment Disability Related Questions and Medical Examination* (October 10, 1995). That offer having been made, it is clear that, absent the erroneous psychological disqualification, E.B.T. would have been employed in the position. Once E.B.T.'s appeal was granted, the Commission notes that any subsequent appointments to the title Fire Fighter made by the City were conditional because, unless the Appellate Division completely reverses the Commission's April 8, 2014 order, E.B.T.'s appointment remains otherwise mandated absent any disqualification issue ascertained through an updated background check, meaning any behavioral incidents which may have occurred between the City's original conditional offer of appointment and E.B.T.'s actual effective date of appointment.

Based on the above, it is clear that the City of Hoboken has not shown a clear likelihood of success on the merits in this case. It is well settled that an appellate court will reverse the final decision of an administrative agency only if it is arbitrary, capricious or unreasonable or if it is not supported by substantial credible evidence in the record as a whole, or if it violates legislative policy expressed or fairly to be implied in the statutory scheme administered by the agency. *See Karins v. City of Atlantic City*, 152 N.J. 532, 540 (1998); *Henry v. Rahway State Prison*, 81 N.J. 571, 579-80 (1980); *Mayflower Securities v. Bureau of Securities*, 64 N.J. 85, 92-93 (1973); *Campbell v. Civil Service Department*, 39 N.J. 556, 562 (1963). Hoboken has not presented any evidence that the Commission's prior decision meets the enumerated standards for reversal. As stated above, in this case, there is nothing in the record which convinces the Commission that the Panel's assessment of E.B.T. was not based on the totality of the record presented to it, or was otherwise in error.

ORDER

Therefore, it is ordered that this petition for a stay be denied, and that the City of Hoboken immediately comply with the Commission's prior Order.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 13TH DAY OF AUGUST, 2014



Robert M. Czech
Chairperson
Civil Service Commission

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and
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c: Bryant Gonzalez, Esq.
Daniel R. Zirrith, Esq.
Kenneth Connolly
E.B.T.
Todd Wigder, DAG
Clerk, Appellate Division

B-5



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of [REDACTED],
Fire Fighter (M2537M), Hoboken

CSC Docket No. 2014-124

Medical Review Panel Appeal

ISSUED: APR 10 2014 (BS)

[REDACTED], represented by Alex Klein, Esq., appeals his rejection as a Fire Fighter candidate by Hoboken and its request to remove his name from the eligible list for Fire Fighter (M2537M) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel on January 14, 2014, which rendered the attached report and recommendation on January 23, 2014. No exceptions were filed by the parties.

The report by the Medical Review Panel discusses all submitted evaluations. The test results and procedures and the behavioral record, when viewed in light of the Job Specification for Fire Fighter indicate that the applicant is psychologically fit to perform effectively the duties of the position sought, and therefore, the action of the hiring authority should not be upheld. Accordingly, the Panel recommended that the candidate be restored to the eligible list.

CONCLUSION

Having considered the record and the Medical Review Panel's Report and Recommendation issued thereon, and having made an independent evaluation of same, the Civil Service Commission accepted and adopted the findings and conclusions as contained in the attached Medical Review Panel's Report and Recommendation.

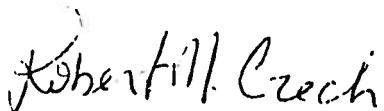
ORDER

The Civil Service Commission finds that the appointing authority has not met its burden of proof that [REDACTED] is psychologically unfit to perform effectively the duties of a Fire Fighter and, therefore, the Commission orders that his name be restored to the subject eligible list. Absent any disqualification issue ascertained through an updated background check conducted after a conditional offer of appointment, the appellant's appointment is otherwise mandated. A federal law, the Americans With Disabilities Act (ADA), 42 U.S.C.A. §12112(d)(3), expressly requires that a job offer be made before any individual is required to submit to a medical or psychological examination. *See also the Equal Employment Opportunity Commission's ADA Enforcement Guidelines: Preemployment Disability Related Questions and Medical Examination* (October 10, 1995). That offer having been made, it is clear that, absent the erroneous disqualification, the aggrieved individual would have been employed in the position.

Since the appointing authority has not supported its burden of proof, upon the successful completion of his working test period, the Commission orders that appellant be granted a retroactive date of appointment to the date he would have been appointed if his name had not been removed from the subject eligible list. This date is for salary step placement and seniority-based purposes only. However, the Commission does not grant any other relief, such as back pay or counsel fees, except the relief enumerated above.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 9TH DAY OF APRIL, 2014




Robert M. Czech
Chairperson
Civil Service Commission

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Attachment

c:


Alex Klein, Esq.
Kimberly M. Wilson, Esq.
Kenneth Connolly

TO: State of New Jersey, Department of Personnel
Merit System Practices & Labor Relations

FROM: Medical Review Panel
(Angelica M. Diaz-Martinez, Psy.D., & Joel Friedman, Ph.D)

RE: [REDACTED]

DATE: January 23, 2014

DISCUSSION:

[REDACTED] is 31 year-old applicant to the City of Hoboken for the position of Fire Fighter, whose name was removed from the eligibility list of the hiring authority for the reason of not being considered psychologically suited to the position. The Medical Review Panel, at its meeting on January 24, 2014 discussed Mr. [REDACTED]'s appeal of this action by the hiring authority. The applicant was seen by Betty C. McLendon, Psy.D., (report dated April 1, 2013) on behalf of the hiring authority and by Peter M. Crain, M.D. (report dated September 11, 2013) on behalf of the applicant. Mr. [REDACTED] was present at the meeting with his attorney Alex Kline. Dr. Betty McLendon was present on behalf of the hiring authority.

FINDINGS:

Dr. Betty McLendon conducted a psychological evaluation of the applicant that included the following:

- Background data reviewed
- Clinical Interview
- CPS Biography
- Curtis Completion Form
- Firefighter Candidate Inventory
- Firefighter Candidate Questionnaire
- Firefighter Situational Questionnaire
- House-Tree-Person Projective Drawings (HTP)
- Inwald Personality Inventory (IPI)
- Personal Problems Checklist for Adults
- Psychological Social History
- Shipley - 2
- Symptom Checklist-90 Revised (SCL 90R)

Dr. McLendon characterized the candidate as follows:

- Completed high school at St. Peter's Prep and also earned a BA in Spanish and Mathematics from Rutgers University in 2007.
- Employed as a plumber with his father's plumbing business since March 2005. He has also worked as a martial arts instructor on a part-time basis.
- Above average intelligence.
- "Indeed, an appraisal of Mr. [REDACTED]' personal history, as well as his performance on clinical measures, reflected a pattern of adjustment difficulties which raised serious concerns about his suitability for this position."
- Legal history included "brushes with the law" that included in September 2000, possession of marijuana, January 5, 2001 improper behavior, distribution of marijuana, distribution of CDS on school property. On May 25, 2003 lewdness, defiant trespassing resisting arrest and aggravated assault.

- Indicated that candidate indicated that his first charge had been dismissed. "...denied that he was on school property relative to the second charge, but then remarked that he was going to a school dance. Mr. [REDACTED] admitted to the third arrest, but stated that he had only been charged with one count of aggravated assault. He indicated during Clinical Interview that when the police officer came he resisted arrest and touching an officer in any way constituted aggravated assault." He was sentenced to the County jail for seven days, 4 years probation and community service and paid fines. In addition, he participated in psychotherapy, anger management counseling and drug/alcohol counseling.
- Admission on testing that he drank alcohol in the past and had not had alcohol in 7 years. Also admitted to marijuana use on a daily basis until September 2005.
- He attended both Carrier Clinic and Hoboken University Medical Center for drug treatment. He has been sober for seven years.
- He did not provide spontaneous information unless directly queried concerning his substance abuse history. Actual participation in current after care such as alcoholics anonymous is unclear.
- "Indeed, there was limited evidence to suggest that he has been effective at meeting challenges and adhering to standards after he stopped using drugs and alcohol."
- Driver's license record indicated that his license was suspended twice due to his drug abuse. In 2010 he received a ticket and did not pay the fines. No moving violations in 5 years. His license suspension occurred on his way to a wedding in Pennsylvania in which he received a ticket for use of his cell phone. He reported that he did not get the notice that his license was suspended due to a past drug offense. He was driving under suspension when he was pulled over for his cell phone usage while driving. His license was suspended for 6 months ending in January 2012.
- Work history was limited to part-time employment and employment with his father.
- He is in the process of paying bank loans, but rents his apartment from his father. He pays cash for the monthly rent and has no lease "which would suggest an informal arrangement that would not be expected to be especially taxing on Mr. [REDACTED] or allowing for adult responsibility and independence."
- Presentation of himself in testing that he is a person of high moral character which is inconsistent with his past.
- Does not demonstrate to be an individual with "stable adjustment, resources or sound judgment that would render him a suitable candidate for the position of Firefighter."
- Dr. McLendon concluded, "[REDACTED] is a thirty-one year old male who has demonstrated a pattern of maladaptive functioning characterized by a history of substance abuse problems, and repeated difficulty assuming responsibilities and adhering to standards. This was supported by a review of his personal history which has included illegal drug use, a criminal record, alcohol abuse problems and motor vehicle infractions. During clinical interview he presented as an individual with limited insight and poor judgement that does not have the resources to effectively take on these challenges. Consequently, Mr. [REDACTED] is deemed to be psychologically unfit to serve as a Firefighter with the Hoboken Fire Department."

Dr. Peter M. Crain conducted a psychiatric evaluation of the applicant that included the following:

- A review of records (Dr. McLendon's report)
- Mental Status Examination

Dr. Crain characterized the candidate as follows:

- Discussion of Dr. McLendon's findings.
- Current member of AA. Earned a degree from Rutgers University in Economics. Helped run his family plumbing business.
- At age 18 he was charged with possession of CDS (marijuana and Ecstasy) and pled guilty. Sentenced to 3 years of probation, fines and loss of his driver's license for 6 months. He was also required to enter treatment for substance abuse. He visited a drug counselor at Rutgers with sessions for the next 3 years.
- During his second year of college he experienced side effects from smoking marijuana and he discontinued the use of the marijuana, however he resumed smoking with friends at home.

- In summer 2002 he stopped drinking completely and stopped smoking marijuana and remained abstinent from July 2002 until present. He resumed marijuana use again when he met a girl who smoked marijuana.
- In 2002 his family insisted he obtain professional drug help and he was admitted into the Hoboken hospital and then Carrier Clinic in September 2002. He was prescribed Zyprexa. He continued to use substances. Took one semester leave from college.
- In Spring 2003, he returned to college he developed changes in his life and developed a regimen of exercising and restricted his use of marijuana before bedtime.
- On May 25, 2003 – he was arrested after ringing the doorbell of a stranger while wandering in Atlantic City at night. He was supposed to return to treatment and was prescribed Abilify. He was on/off substances for many years and in September 2005, he became abstinent until present.
- In September 2010 he was given a driver's ticket for breaking the speed limit in a construction zone. He forgot about the ticket and did not pay the fine. Later in 2011, he was stopped for using a cell phone while driving, his license was suspended for nonpayment of the speeding ticket.
- He attends AA once every week to a month.
- Mental status examination is unremarkable.
- Dr. Crain concluded, "Mr. [REDACTED] is psychologically fit to serve as a firefighter with the Hoboken Fire Department."

ADDITIONAL MATERIALS REVIEWED

- Letter dated October 25, 2013 on Fox and Fox letterhead signed by Bassel Bakhos
- Letter dated September 18, 2013 signed by Dr. Michael A. Ruzek
- Letter written on Birch coffee letterhead signed by Jeremy Lyman
- Character reference letter (unsigned) signature line David Caplan (dated 9/18/13)
- Letter dated 9/18/13 signed by Ben Case
- Letter dated 9/30/13 signed by Justin Charles
- Letter dated 9/25/13 signed by Erik Belkin
- Letter dated 10/1/13 signed by Shameely Azanedo
- Letter dated 9/29/13 signed by Leonard Lieberman
- Letter dated 9/20/13 signed by Vincent E. Pellecchia
- Letter dated 9/30/13 signed by Philip Salinardi Jr.
- Letter dated 9/27/13 signed by Capt. Timothy McNamara HFD (Retired)
- Letter dated 9/23/13 signed by Alex Richter
- Letter dated 12/5/13 on Fox and Fox letterhead signed by Alex Klein
- Letter dated 11/7/13 signed by A. Louis Reyes
- Letter dated 10/25/13 signed by Jaclyn Cherubini
- Letter (undated) signed by Roman Estrella
- Letter on Walder, Hayden and Brogan letterhead signed by Joseph A Hayden, Esq.
- Hoboken Fire Division Character and Residence Voucher signed by Joseph Hayden Esq dated 2/4/13

CONCLUSIONS:

The evaluators on behalf of the applicant and the hiring authorities reached differing conclusions and recommendations. The negative recommendations that were indicated related to Mr. [REDACTED]'s addiction history, arrests, disregard for societal standards and poor decision making skills. Mr. [REDACTED] answered all of the panel's questions throughout the MRP and was forthcoming.

Mr. [REDACTED] is currently employed with his father helping to run the family plumbing and heating business. He stated that he began working full-time in the family business in 2005. Prior to that year, he had worked part-time with his father on and off for many years. He also works part-time as a martial arts teacher in New York City.

Mr. [REDACTED] was asked about his arrests and he was forthcoming about the difficulties he experienced due to his addiction to alcohol and marijuana. When he was 18 years old he was arrested in Union City, New Jersey for possession of marijuana. That charge also came with a mandatory suspension of his driver's license for 6 months. Admittedly he had two other legal issues and because of those legal issues, he attended drug/alcohol rehabilitation. He attended Hoboken University Medical Center, Christ Hospital and Carrier Clinic. He stopped drinking alcohol and eating red meat in July 2002. He began attending Alcoholics Anonymous meetings in 2000 and continued his involvement. He stated that he considers his sober date as September 16, 2005 because this is when he no longer smoked marijuana. He had continued using marijuana on/off since 2002, but abstained in 2005 and stated that he has not touched any illicit and/or addictive substances since 9/16/05. He denied the use of any other drug during this time as well. Since he became sober he has completed his undergraduate degree at Rutgers University in Economics, with a minor in Spanish. He has established a long-term personal relationship and has been married for several years. He began working in the family business, obtained his black belt and began teaching martial arts, changed his eating and exercise habits and has continued to participate in AA.

Mr. [REDACTED] was asked about his license suspension in 2010. He admitted to being pulled over in Pennsylvania on the way to a friend's wedding in Georgia. He put the ticket away and forgot about the ticket, thus he did not pay it. Later that year, he was cited for talking on his cell phone while driving and he was informed that his license was suspended. He discussed the steps he took to reinstate his driver's license and how arduous the process was due to difficulties between the two states divisions of motor vehicles. He stated that he resolved the issue and did not drive during the time he found out of the suspension until the license was reinstated. He explained that this was his error due to forgetting about the ticket to begin with and he also indicated that he should have been using his Bluetooth as well.

Mr. [REDACTED] has a history of serving as a Life Guard and enjoyed this work. He indicated that it has similarities to Firefighting because it serves the public, and he is able to help people. When asked about his reasons for becoming a firefighter, he indicated that he knows firefighters and they have encouraged him to become one because of his personality and experience. Also, he indicated that working as a firefighter allows him to continue to work with his father and pursue other areas of growth such as the martial arts.

The candidate reported that he does not have credit problems at this time. In the past, due to being his father's namesake, he had to clear his credit to separate the records. He reported his scores to be in the mid-600s. He lived on his own in an apartment in North Bergen, however he moved to a building his father owned when his father asked him if he was interested. Living in this family-owned building allows him to look after the building. He does pay rent as any other tenant.

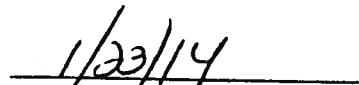
It is clear that Mr. [REDACTED] had many difficulties due to his addiction to alcohol and marijuana. He experienced legal difficulties, problems with his family and friends and suffered academically as well. Since he became sober in 2005, Mr. [REDACTED] impresses as an individual that has put his life back into order. He graduated from college, has gotten married and reports to be in a stable and loving relationship, returned to help run his family's business full-time and has become a martial arts teacher while earning his own credentials in this area. Since his sobriety began, Mr. [REDACTED] has not had any other legal difficulties. Albeit he forgot to pay a ticket and had his license suspended, however he clearly took responsibility for the incident and cleared up the matter as quickly as he could. Objective testing (Inwald) conducted by Dr. McLendon indicated that he appeared to be an "honest and candid" candidate. Further, he "falls into the category likely to recommend for employment in a public safety/security position." The letters of reference, present a man who is disciplined, focused and well-liked as well as admired. Qualities that are necessary in a firefighter. Most striking is the letter written by Retired HFD Captain McNamara who indicated that Mr. [REDACTED] has the qualities needed to be a firefighter.

Therefore, taking into consideration Dr. McLendon's psychological evaluation, Dr. Crain's psychiatric evaluation, the letters of reference and Mr. [REDACTED]'s presentation; the test results and procedures and the behavioral record when viewed in light of the job specifications for City of Hoboken Firefighter, it indicates that the applicant is mentally fit to perform effectively the duties of the position sought, and therefore, the action of the hiring authority should not be upheld.

RECOMMENDATION:

It is the recommendation of the Panel that the candidate, Mr. [REDACTED] be reinstated onto the candidate eligibility list.


Angelica M. Diaz-Martinez, Psy.D.


Date